

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
EUGENE DIVISION

STEVEN KNOX,

Petitioner,

v.

CHRISTINA POPOFF,

Respondent.

No. 6:17-cv-104-PK

OPINION AND ORDER

MOSMAN, J.,

On March 14, 2018 Magistrate Judge Paul Papak issued his Findings and Recommendation (F&R) [42], recommending that Petitioner's Petition for Writ of Habeas Corpus [2] should be dismissed; that Petitioner's Motion to Amend/Supplement Facts of Petition [37], Amended Motion for Summary Judgment [39], and Motion for Immediate Release [40] should be denied as moot; that a judgment of dismissal should be entered; and that I should certify that Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2). Petitioner filed a Motion to Determine Question of Law [48], which I construe as an objection to the F&R, as well as Objections [49].

DISCUSSION

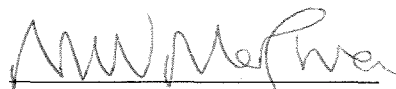
The magistrate judge makes only recommendations to the court, to which any party may file written objections. The court is not bound by the recommendations of the magistrate judge,

but retains responsibility for making the final determination. The court is generally required to make a de novo determination regarding those portions of the report or specified findings or recommendation as to which an objection is made. 28 U.S.C. § 636(b)(1)(C). However, the court is not required to review, de novo or under any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the F&R to which no objections are addressed. *See Thomas v. Arn*, 474 U.S. 140, 149 (1985); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003). While the level of scrutiny under which I am required to review the F&R depends on whether or not objections have been filed, in either case, I am free to accept, reject, or modify any part of the F&R. 28 U.S.C. § 636(b)(1)(C).

Upon review, I agree with Judge Papak's recommendation and I ADOPT the F&R in full. Petitioner's Petition for Writ of Habeas Corpus [2] is DISMISSED. Petitioner's Motion to Amend/Supplement Facts of Petition [37], Amended Motion for Summary Judgment [39], and Motion for Immediate Release [40] are DENIED as moot. Petitioner's Motion to Determine Question of Law [48] is accordingly DENIED. I further decline to enter a certificate of appealability because Petitioner has not made a substantial showing of the denial of a constitutional right pursuant to 28 U.S.C. § 2253(c)(2).

IT IS SO ORDERED.

DATED this 20 day of June, 2018.


MICHAEL W. MOSMAN
Chief United States District Judge